

SENATE BILL REPORT

E2SSB 6249

As Passed Senate, March 5, 2014

Title: An act relating to establishing new authority for courts to assess cost recovery fees for costs associated with new indigent defense standards.

Brief Description: Establishing new authority for courts to assess cost recovery fees for costs associated with new indigent defense standards.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Dammeier, Rivers, Brown, Hobbs, Fain, Mullet, McCoy and Tom).

Brief History:

Committee Activity: Law & Justice: 2/05/14, 2/06/14 [DPS-WM, DNP].

Ways & Means: 2/11/14, 2/26/14 [DP2S, DNP, w/oRec].

Passed Senate: 3/05/14, 34-14.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6249 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Kline, Ranking Member; Darneille and Pedersen.

Staff: Aldo Melchiori (786-7439)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6249 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Assistant Ranking Member on the Operating Budget; Bailey, Becker, Braun, Conway, Dammeier, Hewitt, Parlette, Schoesler and Tom.

Minority Report: Do not pass.

Signed by Senator Padden.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: That it be referred without recommendation.

Signed by Senators Frockt, Hasegawa and Hatfield.

Staff: Julie Murray (786-7711)

Background: Caseload Limits. Under statute, cities and counties must adopt standards for the delivery of public defense services, and must use the standards endorsed by the Washington State Bar Association (WSBA) as guidelines for the provision of public defense services. These standards include specific attorney experience requirements and caseload limits that vary based upon what kinds of cases the attorney is handling.

The Washington Supreme Court (WSC) has adopted amendments to court rules requiring that, in order to be appointed to represent an indigent person, counsel must certify compliance with specific numerical caseload standards for indigent defense services based upon those recommended by the WSBA. Since 2013 public defenders assigned a felony caseload have been required to certify that their caseload assignment does not exceed 150 cases per year, and those assigned a juvenile caseload have been required to certify that their caseload assignment does not exceed 250 per year. The WSC delayed implementation of the misdemeanor caseload limit until January 1, 2015. When the rule becomes effective, public defenders representing misdemeanor defendants must certify to the court that they are in compliance with a limit of 400 cases per attorney annually, or 300 cases annually if the court uses a weighted system described in the rule.

Legal Financial Obligations. When a person is convicted of a crime, they are obligated to pay various fees, fines, and victim restitution. An offender's payments made toward legal financial obligations are applied first to restitution and then proportionally to other monetary obligations after restitution has been satisfied. Among the various fees and assessments courts may collect is a fee of \$43 from a defendant upon conviction or guilty plea in a court of limited jurisdiction.

Summary of Engrossed Second Substitute Bill: The Legislature finds that the state Supreme Court new standards and caseload limits for public defenders become effective January 2015. The Legislature's intent is to provide additional fee authority to offset the cost that this will have on local courts. Additionally, the Legislature intends to review the fiscal impact of the new standards and identify appropriations for nonconstitutional functions and programs that could be redirected to mitigate indigent defense costs.

The limits are raised with respect to three categories of costs and fees a court may collect the following:

- The fee a court of limited jurisdiction may collect upon a defendant's conviction is raised from \$43 to \$55;
- The limit on expenses a court may recoup for costs incurred in preparing and serving a warrant for failure to appear is raised from \$100 to \$175; and
- The allowed monthly assessment a court may impose for services provided for misdemeanor probation evaluation and supervision is raised from \$100 to \$150.

Revenue collected that is attributable to these increases must be used to support contracts, programs, and personnel specifically associated with indigent defense.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute as Heard in Committee (Law & Justice): PRO: Cities will be significantly affected by the Supreme Court rule change. Cities will need help dealing with the increased costs of indigent defense. The state should find a way to fund indigent defense without demanding so much from city budgets. These targeted dollars will help cities deal with the issue.

CON: It is a bad idea to pile on legal financial obligations. The money is not sent to a fund dedicated for indigent defense.

OTHER: Superior court fees may not be the best place to try and increase fees to raise revenue because many of the defendants already cannot pay their legal financial obligations.

Persons Testifying (Law & Justice): PRO: Senator Dammeier, prime sponsor; Doug Levy, cities of Everett, Renton, Puyallup, Issaquah, Fircrest; Heidi Wachter, city of Lakewood; Candice Bock, Assn. of WA Cities; Steve Kirkelie, city of Puyallup.

CON: Bob Cooper, WA Defender Assn.

OTHER: James McMahan, WA Assn. of County Officials; Ramsey Radwan, Administrative Office of the Courts.

Staff Summary of Public Testimony on Substitute as Passed by Law & Justice (Ways & Means): PRO: We support the proposed second substitute bill. Cities need to respond to the increased costs new indigent defense rules will have. These fees are waived at the local level for indigent persons. Cities will still need more funds and will need to manage cases differently, but the increased fees will help mitigate new costs. We had to add staff in response to the new rules and will likely need to add more.

CON: Indigent defendants should not bear this cost. The legal financial obligation system is broken and revenue will not be released. Fees and costs will not be waived and will hurt poor people. Other strategies should be used to deal with this issue. The court's indigent defense rules are not a new mandate; the court is only enforcing current standards.

Persons Testifying (Ways & Means): PRO: Doug Levy, cities of Everett, Fife, Issaquah, Kent, Lake Stevens, Puyallup, Renton, Redmond; Candice Bock, Assn. of WA Cities; Jim Justin, cities of Yakima, Vancouver.

CON: Chris Kaasa, American Civil Liberties Union of WA; Bob Cooper, WA Defenders Assn., WA Assn. of Criminal Defense Lawyers.